

June 23, 2015

Newton Board of Aldermen and Land Use
Committee Mr. David A. Olson, City Clerk
City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Re: 283 Melrose Street, #480-14(3)

Dear Alderman and Land Use Committee

Members,

First, we reiterate and maintain our positions stated in the Revised Notice of Protest dated May 23, 2015, and filed in this matter.

Alderman Gentile asked for comments on restrictions to be placed on the property if it is developed and subject to any special permit. Any proposed restrictions/ conditions initially suggested below are proposed solely in respect to the theater and function facility as proposed, and not more than eight or nine residential units being built otherwise as provided by current zoning, and this document shall not be deemed or construed to be an assent to the current proposal or its density, scale and lack of setbacks or deficient plans and engineering, and without waiver of the contention of the abutters that the nonconforming theatre use was abandoned. This document stands for the proposition that shows the willingness of the abutters to assent to the continuation of the non conforming theatre use as a reasonable accommodation of the Applicant.

Therefor, if there is to be any sort of development permitted which continues or permits such a theater/function hall use, our initial comments on appropriate restrictions to be considered (and we reserve the right to make future additions/comments) are the following:

1. Maximum event operations (function hall and theater) five (5) days a week. Police detail and off site valet parking for all large events (over 75 people).

Response: the petitioner will agree to accept a condition that limits the number of days per week that the theatre building would be open to the general public, to five days (Wednesday- Sunday). With regard to the parking in discussions with the Ward aldermen they indicated a preference for resident-only parking restrictions on Ash Street with appropriate signage. In addition we are proposing to employ parking attendants to direct patrons to available public parking within walking distance of the theater as shown on the attached survey of public parking in the Auburndale Village center.

2. No events when Korean church has regularly scheduled services or events, which includes regular Sunday services.

Response: after having spoken to parishioners at St. Antoine Daveluy Parish at Corpus Christi, we have been able to ascertain the following schedule: 9 AM children's Mass on Sundays followed by an 11:30 AM Mass for adults. Since any matinee or other function to be held on Sunday in the theater building would not begin before 2:00 PM, no church/theater conflicts should be expected.

3. No loud electronic music or so-called rock concerts permitted; no use as a nightclub, bar or club of any kind.

Response: except for the Symphony, all live music today is produced by electronic instruments; as part of a multimillion dollar renovation the building is being retrofitted with state-of-the-art acoustics and soundproofing. Please refer to the prior memorandum dated October 13, 2015 regarding the subject mixed-use project, for a description of the kinds of activities to be conducted in the theatre

building. Those activities do not fall within the definition of nightclub, bar or club of any kind.

4. Lighting must be designed to be reasonable and so as to not interfere with neighbors or shine on their properties.

Response: we are in agreement with a condition in the board order that confirms compliance with the city's light trespass ordinance.

5. Limit the number of functions allowed per day (no booking of a wedding for a Saturday morning/afternoon and then have a theatre production in the evening).

Response: Please refer to the prior memorandum dated October 13, 2015 regarding the subject mixed-use project, for the scheduling of activities to be conducted in the theatre building.

6. Locate dumpsters away from abutters.

Response: the current site plan shows the dumpster servicing the theater building to be located within an enclosure on the north face of the theater building at least 50 feet removed from the nearest lot line. In addition the dumpster for the residential building is located within the parking garage.

7. Keep property clean and maintained in first class condition at all times, including landscaping and routine snow removal (all snow must be removed off site promptly and not stacked on site or in the streets).

Response: Agreed. Snow will be removed from the property on an as-needed basis by private contractor dependent upon the volume of snowfall.

8. Reasonable hours of operation for theater/function hall events, including theater, rehearsals, trash pick-up, deliveries, landscaping and routine snow removal must be established. Suggestions:
Monday, Tuesday, Wednesday 7 am – 9 pm Thursday 7 am – 10 pm
Friday, Saturday 9 am – 11 pm (not when Korean Church is actively operating).
Sundays, evenings only when and if Korean Church is not actively operating.

Response: Please refer to the prior memorandum dated October 13, 2015 regarding the subject mixed-use project, for the scheduling of activities to be conducted in the theatre building and the response to question #2 above. As an additional qualifier, we propose to close the theatre on Sundays no later than 10:00PM.

9. No trash pick-up or deliveries on Sundays.

Response: Agreed.

10. Standard setbacks.

Response: The standard side and rear yard setback adjacent to an MR1 district is 20 feet. Given the proximity of the adjacent buildings to the respective lot lines, waivers to 18 feet are not unreasonable

11. No outdoor functions or rehearsals. All functions and activities must take place within the building.

Response: None are proposed.

12. No outside seating.

Response: None is proposed.

13. Very high fencing/screening and appropriate large ornamental shrubbery for sound reduction and screening around the perimeter of the site where it abuts residential properties.

Response: see proposed planting plan.

14. Noise: Function hall must be properly soundproofed to minimize noise heard from the outside. There must be some decibel limit on sound from the theatre/function facility measured at the lot line of that parcel (the Mass. DEP standard is 10 dB(A) above ambient). The conditions should provide for a substantial fine for violation of the limit and provide for reimbursement of the costs of monitoring by an independent sound engineer retained by the City or abutters if there are violations

Response: as stated previously the building is being retrofitted with state-of-the-art acoustics and soundproofing as part of a multimillion dollar renovation, which will be compliant with the relevant state/municipal standard.

Some questions on petition as filed and amended:

How much of the building will be commercial use? Less than 2,500 sf

How can six rental units share a wall with Broadway musicals, weddings, or corporate events?

The rental units do not share a common wall with the theater hall.

How practical is this petition? This project is the paradigm for a smart growth initiative.

Why is this petition being heard when we understand that the application is incomplete with improper filings? Incorrect.

Respectfully submitted,

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